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NEXTEL

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 4, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

EX PARTE

Re: CC Docket No. 94-102

Dear Mr. Caton:

On behalf of Nextel Communications, Inc. ("Nextel") and pursuant to Section 1.1206 of the Federal Communications Commission's Rules, this letter constitutes notice that Nextel submitted the attached letter to members of the Commercial Wireless Division and Policy Division of the Wireless Telecommunications Bureau.

An original and one copy of this letter and the attachment have been filed with the Secretary pursuant to Section 1.1206. Should any questions arise in connection with this notification, please do not hesitate to contact the undersigned.

Respectfully submitted,

NEXTEL COMMUNICATIONS, INC.

Laura L. Holloway
General Attorney

Attachment

cc: John Cimko
David Furth
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NEXTEL

June 4, 1997

Mr. John Cimko, Chief
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
Room 5202
2025 M Street, NW
Washington, DC 20554

RE: CC Docket No. 94-102; Provision of 911 Services By Nextel Communications, Inc.

Dear Mr. Cimko:

I. INTRODUCTION

Nextel Communications, Inc. ("Nextel") is filing this *ex parte* communication as a follow-up to the recent *ex parte* letter of Geotek Communications, Inc. ("Geotek") in this docket. Nextel concurs with Geotek that the Commission should reconsider the definition of "covered Specialized Mobile Radio" ("SMR") for purposes of applying its 911/E911 obligations to certain SMR systems, or alternatively, revise the scope of the 911/E911 requirements. Accordingly, Nextel respectfully offers the following comments.

Pursuant to the Federal Communications Commission's ("Commission") First Report and Order in the above-captioned docket,1/ the Commission required all cellular licensees, Personal Communications Services ("PCS"), and SMR licensees "that hold geographic area licenses" or "who have obtained extended implementation authorizations in the 800 MHz or 900 MHz SMR service, either by waiver or under Section 90.629 of [the] rules,"2/ to provide Basic 911 services and Enhanced 911 services ("E911"). In obliging cellular and PCS licensees to provide 911/E911 access, the Commission stated that it was required of them because their users, as customers

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1/ First Report and Order, 11 FCC Rcd 18676 (1996).

2/ *Id.* at para. 81.

of the telephone network, "expect access to 911 and E911."3/ Applying 911 and E911 requirements to SMR licensees was necessary, the Commission stated, because "these carriers may have a significant potential to offer near-term direct competition to cellular and broadband PCS carriers."4/

As written, the Commission's definition encompasses more than just those SMR providers offering mass-marketed enhanced wireless services that may have the potential to compete in the near term with cellular and PCS carriers. It imposes the obligation on services and equipment that are not designed for or intended for mass marketing to the general consumer, and have no technical capability to interconnect with the Public Switched Telephone Network ("PSTN").

In order to dial "911" and reach a Public Safety Answering Point ("PSAP"), a wireless telecommunications mobile unit must have the capability to access the PSTN, *i.e.,* the mobile unit must be capable of making "telephone calls" -- whether "911" or any other number. Moreover, to be most beneficial to the calling party, that "911" call must be capable of connecting the caller to the appropriate PSAP, *i.e.,* the PSAP located nearest the caller's geographic location. However, not all telecommunications services and equipment are designed to access the PSTN, not all telecommunications systems have the capability or can be modified to accommodate accurate PSAP routing and not all telecommunications users want the higher-cost service or equipment typically necessary for that access.

Geotek argues that fleet dispatch services should provide 911/E911 access in an alternative manner. Rather than requiring significant and costly changes to its products and system -- changes that would alter the service being provided and that are not expected by customers -- Geotek argues that the Commission should allow fleet dispatch users to rely on their dispatcher for emergency situations. Geotek states that the dispatcher would be more reliable than 911/E911, because the dispatcher typically knows each user's location and can provide reliable and accurate routing in an emergency. In contrast, in a high-power, high-site SMR system, a single "cell site" often covers hundreds or thousands of square miles and numerous governmental jurisdictions, making cell site location for determining the appropriate PSAP too inaccurate to be useful.

3/ *Id.* at para. 80.

4/ *Id.* at 81.

II. DISCUSSION

A. Nextel Provides Both Traditional Dispatch and Enhanced SMR Services; Traditional SMR Services Cannot Provide Proximate Location For 911 or E911

Nextel is the Nation's largest provider of SMR services, offering consumers both traditional analog SMR services, *i.e.,* push-to-talk dispatch services, and enhanced digital services. Nextel's digital iDEN services use a cellular or PCS-like low power, multiple-site architecture capable of providing a mobile unit's location within a specific cell site -- in urban areas, sometimes as small as a few miles.

On the other hand, Nextel continues to provide traditional analog SMR dispatch services, sometimes with limited interconnection, using standard, single high-site, high-power systems covering a very large geographic area. Although this analog customer base is gradually diminishing as Nextel expands its digital systems and adds digital customers, it continues to be used by more than 700,000 mobile units.

Within these two broad categories of services -- analog and digital -- Nextel provides four distinct service offerings, each with varying degrees of interconnect, and therefore varying degrees of 911/E911 capabilities. These four service offerings are:

(1) analog dispatch-only services;

(2) analog dispatch services with limited ancillary interconnection capability;

(3) dispatch-only digital iDEN service; and

(4) fully integrated digital cellular, dispatch, short-messaging iDEN service.

Nextel's analog services -- like Geotek's fleet dispatch services and those of many other analog SMR providers -- should not be required to comply with the full panoply of 911/E911 requirements. These services will not compete in the near term with cellular or PCS; they are not marketed to the general consumer or intended for use by other than businesses in need of communications among members of a fleet, *e.g.,* plumbing companies or messenger services; and users do not "expect access to 911 and E911" on them -- unlike services that provide access to the telephone network.5/

5/ The same is true of Nextel's digital dispatch-only "Direct Connect" mobile units. A customer who cannot make a phone call has no reason to anticipate that he/she can make a "911" call.

Nextel's analog services, moreover, operate through a dispatcher whose duties include keeping track of mobile and portable users, which makes it possible for him/her to summon emergency assistance and provide more accurate location information than would be provided by the system itself. The dispatcher is in almost constant contact with the fleet, is generally aware of each user's geographic location, and can provide accurate and reliable emergency access by contacting the appropriate PSAP on behalf of the fleet member.

Some of Nextel's analog systems are interconnected to the PSTN, providing users with interconnect capability, but most of these systems have only limited interconnection at each base station, *i.e.,* fewer telephone lines to the PSTN than mobile units on the system with interconnect. In other words, unlike Nextel's iDEN systems, or a cellular system where each customer is assigned its own phone number, an interconnected analog SMR user shares a phone line with other interconnected SMR customers using that same base station, thus potentially getting a busy signal anytime it attempts to make an interconnect call. Even if an interconnected analog customer reaches the PSAP via 911, it is not guaranteed connection to the nearest or most appropriate PSAP given the locational limitations of the single base station/cell site system.

For example, an analog user travelling through Washington D.C. might be operating on a base station located in Baltimore, Maryland. If the user were to dial 911, the call would be routed to a PSAP in Baltimore -- approximately 40 miles away from the caller's location and the appropriate PSAP in D.C. Thus, while it may be possible to provide PSAPs with the system's base station location, such information is essentially useless since there typically is only a single base station in the system. In addition, because the individual user has no specific telephone number assigned to it, the Automatic Number Identification ("ANI") aspect of E911 cannot be accomplished since there is no phone number for the PSAP to call back.

Moreover, on these same interconnected SMR systems, *i.e.,* those with base stations interconnected to the PSTN via a limited number of telephone lines, numerous customers have opted to supply some members of their fleet with the capability to make interconnected telephone calls, while limiting other fleet members to intra-fleet and dispatch access only. In other words, in many cases, a customer's fleet may consist of a mix of interconnected and non-interconnected units -- typically the majority of the fleet has dispatch-only service with interconnection restricted to a few employees. The non-interconnected analog user cannot simply request that Nextel "activate" interconnect capability on its mobile unit; rather, that customer would have to purchase new interconnect analog equipment.

Imposing a 911/E911 obligation on an SMR system simply because the base station is interconnected to the PSTN, therefore, would force thousands of SMR subscribers -- who made the express business decision not to purchase interconnected SMR equipment -- to replace their existing equipment with more expensive interconnect-capable mobile units. The system operator would have to add numerous additional phone lines and interconnect equipment to minimize the potential for blocked 911 calls caused by other users tying up the system's few available lines. This would add significant recurring costs, thereby increasing the cost of the service to the customer. In return, the customer would realize only marginal benefit since emergency services are already available through the system's dispatcher.

In addition, Nextel operates analog SMR systems throughout the Nation which are not interconnected to the PSTN and are regulated as Private Mobile Radio Services ("PMRS"). Providing the 911/E911 obligations on these systems would require not only that the customers replace their existing equipment, but also that Nextel reconfigure these systems, upgrade its base stations, undertake CMRS regulatory obligations and negotiate interconnection agreements with local exchange carriers, solely for the purpose of dialing "911" even though access to emergency services is available through the system dispatcher.

B. The Commission Should Delay 911/E911 Implementation For One Year

As Nextel continues to explore options for fulfilling the Commission's E911 mandates and discuss the ramifications of the requirements with other industry participants, it becomes clearer and clearer that implementing E911 requires far more than engineering or technical solutions.6/ In addition to those issues, Nextel must wrestle with the implications of 911/E911 on customer care, marketing, and billing, as well as the state and federal regulatory obligations and tax implications created by 911/E911 fees, taxes and surcharges. The Commission's decision to leave E911 funding issues to state and local officials increases these complexities exponentially for carriers like Nextel serving multi-state, regional or nationwide markets. For example, Nextel must coordinate with thousands of PSAPs -- each with varying levels of E911 capabilities and interests -- and numerous state and local governments, many of which may approach E911 cost recovery from a different perspective.

6/ Among the technical issues are the provision of 911/E911 access from mobile units with no code identification; providing 911/E911 for speech and hearing-impaired customers on TTY/TDD equipment; and ensuring accurate locational information is provided to the PSAP.

Paying 911 fees in thousands of different jurisdictions creates added billing system hurdles that, at this time, have not been resolved. Most carriers' billing systems -- certainly Nextel's -- are configured to accept a finite number of "entries," *i.e.,* line items that appear on the bill. Varying 911 fees and surcharges from county to county, city to city, and /or state to state will overload existing billing systems.7/

In addition to the complexities facing wireless carriers, few -- if any -- state and local jurisdictions have put in place E911 cost recovery mechanisms for wireless providers. Some states have visited the issue of 911/E911 funding for the public safety community,8/ but have not addressed the recovery of costs expended by wireless carriers in making E911 available. Until such cost recovery mechanisms are in place, wireless carriers are not required to implement E911.9/ Many PSAPs, moreover, have yet to expend the necessary capital to upgrade their systems to handle E911 wireless calls. Although some PSAPs are well on their way to upgrading their systems for E911, the Commission's rules do not require wireless carriers to provide E911 until they are assured cost recovery. To date, most wireless carriers -- including Nextel -- do not know the cost of providing E911 to PSAPs. Moreover, carriers cannot determine the cost of providing wireless E911 on an *ad hoc* basis, *i.e.,* implementing it only in those areas where PSAPs are prepared to accept it.

The enormous and far-ranging implications of wireless E911 require additional time so the wireless industry, the PSAP community, and state and local authorities can (a) determine the cost of upgrading to wireless E911, (b) put cost recovery mechanisms in place, and (c) upgrade their systems -- whether technical and operational mechanisms or customer billing mechanisms -- to deal with the full panoply of E911 obligations and its repercussions. Rushing to implementation could result in additional hurdles and complexities as carriers and PSAPs "learn as they go." The public interest would be better served by uniform, consistent, well-thought-out wireless 911/E911 implementation. For these reasons, Nextel respectfully submits

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7/ This is particularly true when considered in concert with the multitude of additional non-911/E911 taxes, fees and surcharges being levied by states and localities. For example, the City of Las Vegas has imposed a four percent gross receipts tax on all airtime billed within the city, while Clark County, Nevada (which encompasses Las Vegas) is currently considering a similar gross receipts tax. Additionally, states will soon initiate Universal Service Fund proceedings to determine their intrastate Universal Service Fund contribution.

8/ Among others, Arkansas, Illinois and Washington State have considered or adopted 911 funding mechanisms.

9/ First Report and Order, 11 FCC Rcd 18676 (1996) at para. 89.

that the Commission should delay the 911 deadline to September 1998 and the E911 deadline to April 1999.

IV. CONCLUSION

The Commission's current definition of "covered SMR" applies the 911/E911 obligation to dispatch-type telecommunications services that are not capable of interconnecting with the PSTN, and on which consumers have no expectation of making any interconnected telephone call because they have chosen a service that provides no access to the PSTN. Overhauling these non-interconnected services simply to provide access to 911 would not only require significant changes in the SMR systems, but also would reduce consumer choice by eliminating entirely the option of subscribing to a mix of interconnected and non-interconnected mobile units because every SMR system falling within the definition of "covered SMR" would be forced to provide interconnect capabilities.

The Commission, therefore, should reconsider the application of 911/E911 obligations to SMR fleet dispatch systems, and allow these systems to access emergency services personnel through the system's dispatcher, who has accurate knowledge of the user's location and can contact the most appropriate PSAP. Moreover, the Commission should delay the 911/E911 implementation deadlines for one year.

Sincerely,

Robert S. Foosaner
Vice President and Chief Regulatory Officer

cc: David Furth
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